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11 Compass Partners, LLC, Compass USA GP,  
12 LLC, Compass USA Holding, LLC, Compass USA, LP,  
13 Compass USA SPE, LLC, Economic Growth Group, Inc.,  
14 Repotex, Inc.

10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 LEONARD C. ADAMS, et al. ) Case No. 3:11-cv-00210-RCJ-VPC  
13 )  
14 Plaintiffs, )  
15 )  
16 v. )  
17 )  
18 SILAR ADVISORS, LP, et al., )  
19 )  
20 Defendants. )  
21 )

22 **SUPPLEMENT TO MOTION TO DISMISS**

23 Defendants DAVID BLATT, BORIS PISKUN, RON FRIEDMAN, COMPASS  
24 FINANCIAL PARTNERS, LLC, COMPASS FP CORP., COMPASS PARTNERS, LLC,  
25 COMPASS USA GP, LLC, COMPASS USA HOLDING, LLC, COMPASS USA, LP,  
26 COMPASS USA SPE, LLC, ECONOMIC GROWTH GROUP, INC., and REPOTEX, INC., by  
27 and through their counsel of record, LAXALT & NOMURA, LTD., pursuant to FRCP 12(b)(6),  
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hereby submit this Supplement to their Motion to Dismiss.<sup>1</sup> This Supplement is based on the following Memorandum of Points and Authorities, the Memorandum of Points and Authorities set forth in the Motion to Dismiss, the exhibit attached to the Motion to Dismiss, and any additional information the Court may choose to consider.

### **MEMORANDUM OF POINTS AND AUTHORITIES**

As discussed in Defendants' Motion to Dismiss, the claims of the improperly added Plaintiffs should be dismissed. Even if Plaintiffs were permitted to file one amended pleading as a matter of right without leave of court under FRCP 15, in order to add, drop, or otherwise amend the parties subsequent to the filing of that one amended pleading, Plaintiffs were required to seek leave of court under Rules 15 or 21 (and related joinder Rules), or they were required to file a motion to intervene in this lawsuit.<sup>2</sup>

As discussed in the Motion, Defendants initially thought that the First Amended Complaint constituted Plaintiffs' one amended pleading permitted without leave of court under Rule 15. Defendants, however, have discovered additional facts since they filed their Motion to Dismiss on August 22, 2011 indicating that Plaintiffs filed an earlier "Notice" on March 22, 2011 (see below), which drops several Plaintiffs from the Original Complaint and Jury Demand

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<sup>1</sup> These Defendants discovered additional facts since they filed their Motion to Dismiss on August 22, 2011 indicating that significantly more Plaintiffs were improperly added as parties to this case than Defendants described in their Motion to Dismiss. Accordingly, Defendants hereby submit this Supplement to their Motion which sets forth the additional facts discovered by Defendants in support of their argument in the Motion that the claims of the improperly added Plaintiffs should be dismissed. Defendants, however, are still investigating the specific amendments made by Plaintiffs in their extensive filings purporting to change the parties to this case. To expedite submission of this Supplement, therefore, Defendants have only generally described Plaintiffs' extensive amended pleadings filed without leave of court.

<sup>2</sup> See *Texas Energy Reserve Corp. v. Department of Energy*, 535 F. Supp. 615, 620-621 (D. Del. 1982) (noting that some courts allow joinder only under Rule 21, but allowing addition of a plaintiff under Rule 15 once as a matter of right without leave of court before a responsive pleading was filed); *Maynard v. Bonta*, 2003 U.S. Dist. LEXIS 16201 (C.D. Cal. Aug. 29, 2003) (discussing that Ninth Circuit has not addressed issue of whether a party must always seek leave of court to add a party under Rule 21, or whether party may amend to add party once without leave under Rule 15, but allowing amendment adding party under Rule 15); *Glass v. UBS Fin. Servs.*, 331 Fed. Appx. 452, 457 (9th Cir. 2009) (affirming district court's denial of putative class member's motion to intervene because motion was untimely under Rule 24).

1 filed on March 21, 2011. This Notice which attempts to change the Plaintiffs, therefore,  
 2 constituted Plaintiff's one amended pleading as a matter of right. Plaintiffs, however, improperly  
 3 filed without leave of court numerous documents after the Notice filed on March 22, 2011  
 4 purporting to further amend the pleadings. The Court, therefore, should disregard all filings  
 5 subsequent to the first Notice filed on March 22, 2011, and should dismiss the claims of all  
 6 Plaintiffs improperly added after that document was filed.

7 Plaintiffs filed their initial Complaint and Jury Demand on March 21, 2011. (Docket #1.)  
 8 On March 22, 2011 and March 23, 2011, Plaintiffs filed several Notices by Plaintiffs with last  
 9 names beginning with the letters A-B, C-D, E-F, G, H-K, L-O, P-S, and T-Z.<sup>3</sup> (Docket # 2-10.)  
 10 These Notices were filed without leave of court, and they change the Plaintiffs that are identified  
 11 in the Original Complaint and Jury Demand. For example, the first Notice filed on March 22,  
 12 2011 for Plaintiffs with last names beginning with the letters A-B drops Plaintiffs Leonard  
 13 Adams, Michel F. Aiello, and Loretta D. Backes from the Original Complaint. (Docket #2.)  
 14 Therefore, this Notice should be considered Plaintiffs' one amended pleading permitted without  
 15 leave of court.  
 16

17 Plaintiffs failed to seek leave of court to submit the following extensive filings after their  
 18 amended pleading filed on March 22, 2011:<sup>4</sup>  
 19

20 3/22/11 Notice by Plaintiffs with last names C-D (Docket #3)  
 21 3/22/11 Notice by Plaintiff Monica C. Ebaugh (Docket #4)  
 22 3/22/11 Notice by Plaintiffs with last names E-F (Docket #5)  
 23 3/22/11 Notice by Plaintiffs with last names G (Docket #6)  
 24 3/23/11 Notice by Plaintiffs with last names H-K (Docket #7)  
 25 3/23/11 Notice by Plaintiffs with last names L-O (Docket #8)  
 26 3/23/11 Notice by Plaintiffs with last names P-S (Docket #9)  
 27 3/23/11 Notice by Plaintiffs with last names T-Z (Docket #10)  
 28 3/31/11 First Amended Complaint and Jury Demand (Docket #13)

<sup>3</sup> The names of the Plaintiffs on whose behalf The Notices were filed are not listed in the actual Notices, but the names are listed on the corresponding docket entries for the respective Notices.

<sup>4</sup> Because of the numerous Plaintiffs in this case, Defendants are still investigating the specific amendments made without leave of court by each of these extensive filings listed below.

1 4/5/11 Notice of Plaintiffs added in First Amended Complaint (Docket #16)  
 2 4/5/11 Notice of Plaintiffs removed via Amended Complaint (Docket #17)  
 3 4/5/11 Notice of Corrected Names of Certain Plaintiffs via Amended Complaint (Docket  
 #18)  
 4 4/5/11 Notice of Defendants added via Amended Complaint (Docket #19)  
 5 4/6/11 Notice of added Plaintiffs with last names A (Docket #21)  
 6 4/6/11 Notice of added Plaintiffs with last names B (Docket #22)  
 7 4/6/11 Notice of added Plaintiffs with last names C (Docket #23)  
 8 4/6/11 Notice of added Plaintiffs with last names D (Docket #24)  
 9 4/7/11 Notice of added Plaintiffs with last names E-F (Docket #25)  
 10 4/7/11 Notice of added Plaintiffs with last names G (Docket #26)  
 11 4/7/11 Notice of added Plaintiffs with last names H (Docket #27)  
 12 4/8/11 Notice of added Plaintiffs with last names I-K (Docket #28)  
 13 4/8/11 Notice of added Plaintiffs with last names L (Docket #29)  
 14 4/11/11 Notice of added Plaintiffs with last names M (Docket #30)  
 15 4/11/11 Notice of Plaintiffs added with last names N-O (Docket #31)  
 16 4/11/11 Notice of added Plaintiffs with last names P-Q (Docket #32)  
 17 4/11/11 Notice of added Plaintiffs with last names R (Docket #33)  
 18 4/11/11 Notice of added Plaintiffs with last names S-Z (Docket #34)  
 19 4/13/11 Second Amended Complaint and Jury Demand (Docket #35)  
 20 5/20/11 Supplement to Second Amended Complaint (Docket #42)

21 Plaintiffs' initial Complaint filed on March 21, 2011 identified 773 individually named  
 22 Plaintiffs. The First Amended Complaint apparently adds approximately 440 new Plaintiffs.  
 23 (See Docket #16.) The Second Amended Complaint and the Supplement thereto purport to add  
 24 an additional 49 Plaintiffs. (See Exhibit "A" to Mot.) Although Defendants are further  
 25 investigating the specific changes to the parties made by these extensive filings, many Plaintiffs'  
 26 names are changed, some already identified Plaintiffs now purport to sue on behalf of family  
 27 trusts and other entities, and other changes to the parties were made. All of these changes were  
 28 improperly made without leave of court after the initial Notice filed on March 22, 2011. The  
 Court, therefore, should disregard any filings changing the parties and the pleadings after the first

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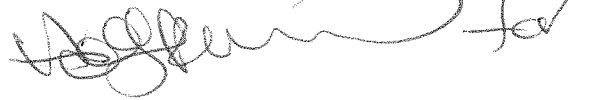
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1 Notice filed on March 22, 2011, and the claims of any Plaintiffs added without leave of court  
2 should be dismissed.

3 Dated this 25<sup>th</sup> day of August, 2011.

4 LAXALT & NOMURA, LTD.

5 

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17 LLC, Compass USA Holding, LLC, Compass USA,

18 LP, Compass USA SPE, LLC, Economic Growth

19 Group, Inc., Repotex, Inc.

**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of LAXALT & NOMURA, LTD., and that on this 25th day of August, 2011, I caused a true and correct copy of the foregoing Supplement to Motion to Dismiss to be served:

   VIA ELECTRONIC SERVICE

addressed as follows:

\*\*\* SEE ATTACHED LIST \*\*\*

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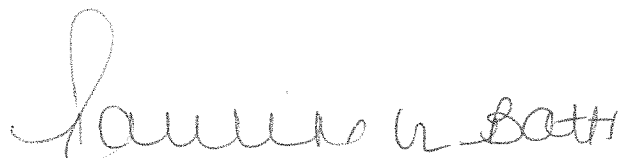
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